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Sequence Number: 12-22-08
Rule ID(s): 3943
File Date: 12/30/08
Effective Date: 03/15/09

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee Department of Human Services
Division:	Family Assistance
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Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here.)

Chapter Number	Chapter Title
1240-01-04	Financial Eligibility Requirements
Rule Number	Rule Title
1240-01-04-.05	Exempt Resources

Chapter 1240-01-04
Financial Eligibility Requirements

Amendments

Rule 1240-01-04-.05 Exempt Resources, is amended by deleting Paragraphs (6) and (7) in their entirety, and by substituting instead the following, so that as amended Paragraphs (6) and (7) shall read as follows:

- (6) Burial Policies, Burial Agreements, and Burial Plots. These shall be considered exempt for resource purposes.
- (7) Pension Funds. The cash value of pension plans or funds shall be exempt. (Food Stamps Only): Excludes any funds in a plan, contract, or account described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986 and the value of funds in a Federal Thrift Savings Plan as provided for in 5 U.S.C. 8439. Also the exclusion of any successor retirement accounts that are exempt from Federal taxes.

Authority: T.C.A. §§ 4-5-201 et seq.; T.C.A. § 4-5-202; T.C.A. §§ 71-1-105 and 71-5-304; 7 U.S.C.A. § 2014(g); 7 C.F.R. §§ 273.9 and 273.10; and PL 110-246, Title IV § 4104(b), June 18, 2008.

Rule 1240-01-04-.05 Exempt Resources, is amended by adding a new Paragraph to be numbered (20), so that as amended new Paragraph (20) shall read as follows:

- (20) Educational Savings Accounts – Food Stamps
 - (a) Educational savings accounts under Section 529 of the Internal Revenue Code of 1986 qualified tuition programs, shall be exempt.
 - (b) Coverdell Education Savings Accounts (Section 530 of the Internal Revenue Code) shall be exempt.

Authority: T.C.A. §§ 4-5-201 et seq.; T.C.A. § 4-5-202; T.C.A. §§ 71-1-105 and 71-5-304; 7 U.S.C.A. § 2014(g); 7 C.F.R. §§ 273.9 and 273.10; and PL 110-246, Title IV § 4104(c), June 18, 2008.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Human Services (board/commission/ other authority) on 10/30/2008 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/28/08

Notice published in the Tennessee Administrative Register on: 09/15/08

Rulemaking Hearing(s) Conducted on: (add more dates).

10/16/08

Date:

October 30, 2008

Signature:

Phyllis Simpson

Name of Officer: Phyllis Simpson

Assistant General Counsel

Title of Officer: Tennessee Department of Human Service



Subscribed and sworn to before me on:

October 30, 2008

Notary Public Signature:

Debra E. Batts

My commission expires on:

May 22, 2010

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General

12-16-08

Date

Department of State Use Only

Filed with the Department of State on:

12/30/08

Effective on:

3/15/09

Riley C. Darnell

Riley C. Darnell
Secretary of State

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Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The United States Department of Agriculture establishes standards of eligibility for participation by households in the Food Stamp Program pursuant to 7 U.S.C. § 2014. For purposes of Acts 2007, Chapter 464, the Regulatory Flexibility Act, the Department of Human Services certifies that these rulemaking hearing rules substantially codify existing federal law, such that, pursuant to Section 6 of the Regulatory Flexibility Act, the Regulatory Flexibility Act's provisions do not apply to these rules. In addition, these rulemaking hearing rules do not appear to affect small businesses as defined in the Act because these rules are related to the determination of eligibility and provision of benefits to individuals and households who file an application for them. These rules do not regulate or attempt to regulate businesses.